

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL WARZEK,

Plaintiff,

v.

VALLEY STATE PRISON, et al.,

Defendants.

No. 1:20-cv-00027-DAD-GSA

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 14)

Plaintiff Michael Warzek is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 27, 2021, the assigned magistrate judge issued findings and recommendations, recommending that this action proceed only against defendants Warden Raythel Fisher, Jr., Officer Paez, and Culinary Staff Members Anguiano, Chapas, Lucero, Marquez, Cruz, and Moosebaur for alleged violations of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), alleged violations of the First Amendment Free Exercise Clause, and alleged unconstitutional conditions of confinement in violation of the Eighth Amendment; against defendants Warden Raythel Fisher, Jr. and Culinary Staff Member Moosebaur for alleged failure to protect plaintiff from harm to his health from the Kosher foods served to him in violation of the Eighth Amendment; and against defendant Culinary Staff Member Moosebaur for alleged

1 retaliation in violation of the First Amendment. (Doc. No. 14.) The pending findings and
2 recommendations were served on plaintiff and contained notice that any objections thereto were
3 to be filed within fourteen (14) days from the date of service. (*Id.*) To date, no objections to the
4 findings and recommendations have been filed with the court, and the time in which to do so has
5 now passed.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings
8 and recommendations to be supported by the record and by proper analysis.

9 Accordingly,

- 10 1. The findings and recommendations issued on August 27, 2021 (Doc. No. 14) are
11 adopted in full;
- 12 2. This action proceeds only on plaintiff's claims against Warden Raythel Fisher, Jr.,
13 Officer Paez, and Culinary Staff Members Anguiano, Chapas, Lucero, Marquez,
14 Cruz, and Moosebaur for alleged violation of the RLUIPA, alleged violation of the
15 First Amendment Free Exercise Clause, and alleged unconstitutional conditions of
16 confinement in violation of the Eighth Amendment; against defendants Warden
17 Raythel Fisher, Jr. and Culinary Staff Member Moosebaur for alleged failure to
18 protect plaintiff from harm to his health from the Kosher foods served to him in
19 violation of the Eighth Amendment; and against defendant Culinary Staff Member
20 Moosebaur for alleged retaliation in violation of the First Amendment;
- 21 3. All other claims and defendants are dismissed from this action; and
- 22 4. The case is referred back to the assigned magistrate judge for further proceedings
23 consistent with this order.

24 IT IS SO ORDERED.

25 Dated: October 22, 2021

26 
UNITED STATES DISTRICT JUDGE